

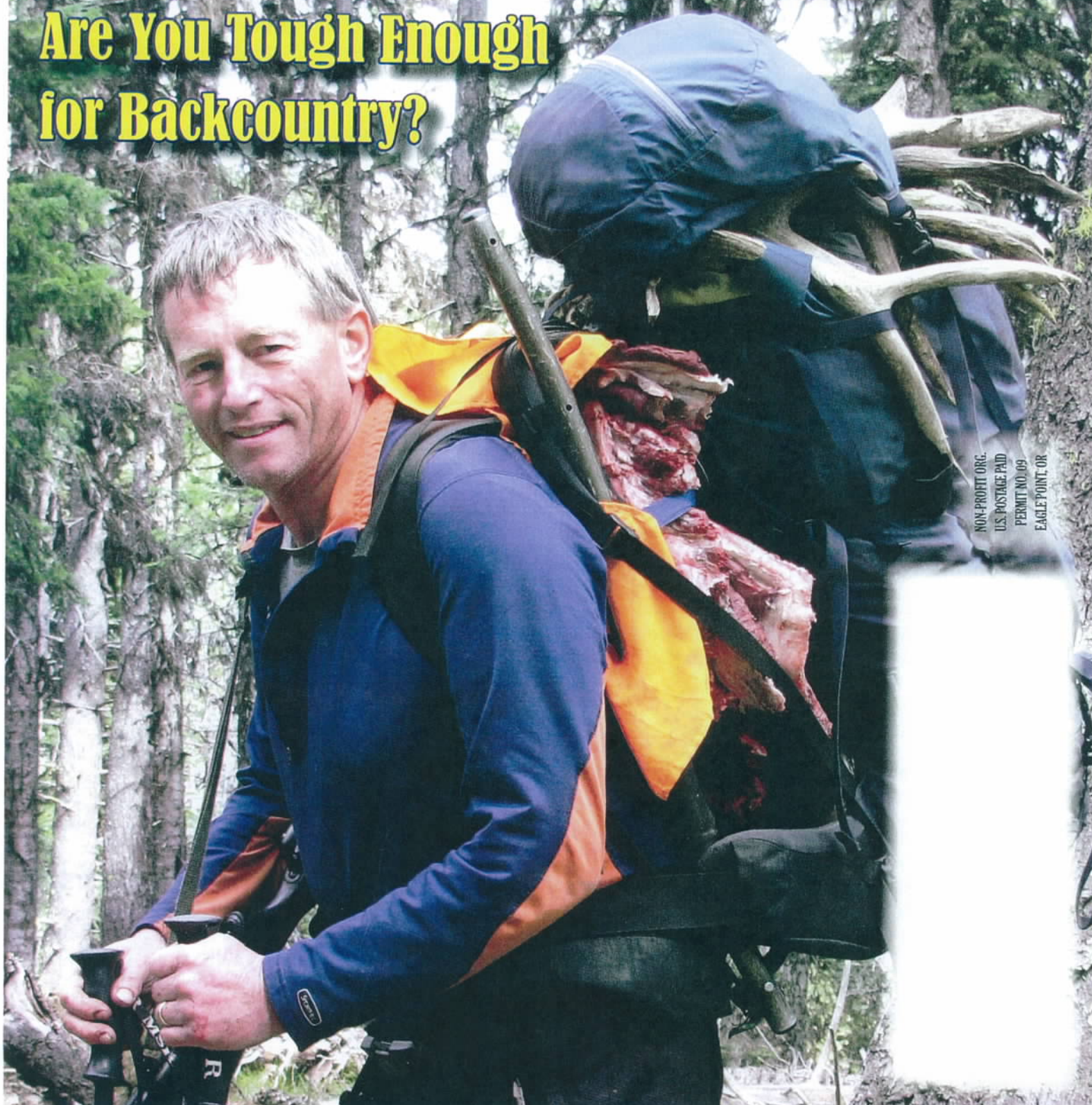


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**Are You Tough Enough
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Forest Cop: Teamwork Needed to Curb Motorized Abuse of National Forests

BHA member Greg Munther sat down with Northern Region Forest Service Law Enforcement and Investigations Special Agent in Charge Jonathan Herrick to discuss finding solutions to the problem of illegal ATVs infringing on habitat and hunting and fishing opportunities. Herrick works out of the U.S. Forest Service Region 1 office. Here's the conversation:

BHA: Several years ago, the Forest Service Chief listed illegal and unmanaged ORV traffic among the largest threats to national forests. How is this reflected in law enforcement? How does the Forest Service decide how much law enforcement effort is to be spent on ORV enforcement?

Law enforcement priorities in the Northern Region of the Forest Service are closely aligned with the priorities of the agency and local line and staff officers (District Rangers, Forest Supervisors, and the Regional Forester).

Law Enforcement Officers (LEOs) at the Districts, Patrol Captains at the Supervisors Offices, and the LEI staff at the Regional Office, are in constant communication with their respective line officer(s) to ensure that priorities are aligned.

When off-highway

vehicle (OHV) issues are a high priority for a line officer on a District, Forest or Grassland, then they are a high priority for LE. With that said, we recognize there will always be numerous other competing interests requiring LE attention whether it be OHV use; forest product theft; vandalism; fire investigation; cultural resource protection; crimes against people (forest users and employees); or any of the many other issues our LE personnel face and are expected to address.

Unlike some other violations that occur, we need to focus on the fact that "off road travel," can cause damage to vegetation and soil as well create negative visual impacts which may take years to recover from. Even just a few ruts through moist terrain can cause long term resource damage that can be very expensive to rehabilitate.

BHA: Our members get frustrated when they play by the rules, work hard, and hike into protected habitat, only to find illegal motorized riders already there. Is that a common complaint?

It is a complaint we often hear and especially prevalent during hunting season.

We highly encourage forest users to call TIPMONT (in Montana) or the natural resource crime reporting equivalent in their area when they encounter such violations. Reporting parties can call the Sheriff's Office, Fish and Game or any Forest Service office. These entities usu-

ally know how to get in touch with a Forest Service LEO. It is important that callers provide as much specific information as possible in order for LE to adequately follow-up. For example, license plate number, make/model of OHV, physical description of the rider including approximate height, weight, hair color, clothing, time and date of violation, and direction of travel.

Unfortunately illegal motor vehicle use seems to be more prevalent than in the past in the Northern Region of the Forest Service. Part of this may be due to increased regulatory emphasis or possibly due to the increased ownership and use of OHVs.

With many recent changes in travel management, we are working hard to educate users about the new rules and understand that some practices of the past, may no longer be acceptable. Some areas that used to be open to motor vehicle use may not be now. We need to educate traditional users as to why these areas have been closed and be able to direct them to other areas where motor vehicle use opportunities exist.

BHA: Mainstream hunters understand that lawbreakers and poachers are bad for the sport. How can we send the message that lawless riding is bad for legit ORV owners?

This article/interview is one way. It helps to continuously educate and inform people of what is acceptable and what is not. Mainstream hunters, outdoor enthusiasts, and all forest users need to be advocates for legitimate use. It is very difficult for the Forest Service to provide 100 percent of the education and prevention. It fosters an "us versus them" atmosphere when in fact the agency and mainstream users seek the same result; legitimate use; voluntary compliance with the regulations; and user accountability.

If we were to apply some basic principles of "community oriented policing" to this issue we would be able to partner with forest users to help affect the change we all want to see. Increased public involvement helps promote legitimate use by empowering users to assist in problem solving and forming solutions with the agency.

Public ad campaigns have also proven to be highly effective in educating users and shedding light on resource management issues. Some examples include "Respected access is open access," "Tread lightly," "Pack it in, pack it out" and "Only you can prevent wildfires."

'It is important to remember that penalties are decided by the courts, not by law enforcement.'

BHA: Can you describe the Forest Service law enforcement organization, its size and how that affects ORV enforcement?

The Northern Region area encompasses 25 million acres and is spread over 5 states. Included are 12 National Forests located within the perimeter of northeastern Washington, northern Idaho, and Montana; and the National Grasslands in North Dakota and northwestern South Dakota.

The structure of the Forest Service Law Enforcement organization in the Northern Region mirrors that of a traditional police agency with divi-

sions for uniformed patrol, investigations (both criminal and civil), administrative support, and senior management. The uniform division consists of 41 highly trained Law Enforcement Officers (LEOs) whose primary responsibility includes patrolling the National Forests and Grasslands for purposes of crime prevention, detection, and apprehension of suspected violators. The officers training includes seventeen 17 weeks of intensive police training followed by 12 weeks of Field Training under the direct oversight of a designated Field Training Officer. Our uniformed officers also conduct limited civil and criminal investigations. The LEOs are supervised by four geographically placed Patrol Captains located in Coeur d'Alene, Helena, Hamilton, and Kalispell. They are in turn supervised by the Regional Commander in the Regional Office (Missoula).

There are seven Criminal Investigators/Special Agents geographically located throughout the Region. They traditionally conduct the more complex, longer term criminal and civil investigations. They are supervised by the Assistant Special Agent for Investigations located in the Regional Office (Missoula). The Commander and ASAC report directly to the Special Agent in Charge who reports to the Director, LEI, in Washington, DC.

There are seven administrative support specialists located throughout the Region that provide assistance to the field in a variety of ways such as budget tracking, human resources advice, electronic and paper records maintenance, evidence collection/custody, investigative support, and maintenance of training records as well as a myriad of other day-to-day duties.

The Forest Service also utilizes Forest Protection Officers (FPOs) to help support the law enforcement/resource protection mission of the agency. These are agency employees, very often seasonal employees, that work in Fire, Recreation, or some other discipline that receive 36 hours of Forest Protection Officer training. Once training is completed these employees are authorized by the Special Agent in Charge to issue Notices of Violation (tickets) to individuals al-

leged to have violated the prohibitions of Title 36 of the Code of Federal Regulations written to protect National Forest and Grasslands. These individuals are uniformed but are not Law Enforcement employees nor do they have the higher level of authority that our LEOs and Special Agents possess.

The primary individuals involved in OHV issues are the uniformed LEOs and the FPOs. These are the folks that are out patrolling and interfacing with forest users on a regular basis and therefore most often find the violations or have them reported to them. We have more and more seasonal employees at the District level employed as OHV or Snow Rangers whose primary responsibilities involve Travel Management. It is important to note however that our employees cover a vast amount of acres and often that limits our ability to be as responsive as we may like. This also encourages LE to focus efforts in the worst of problem areas whenever possible.

BHA: What are the biggest impediments to effective ORV law enforcement?

The success of Travel Management and effective OHV management hinges on education, engineering, and ultimately enforcement. It is not clear whether or not the public is fully aware of the travel plans and the motor vehicle use maps that govern travel management on federal public lands. We may need to seek additional venues for providing this information to the public.

While we in Law Enforcement spend a lot of time on education, mostly through public contact, it is a stark reality that each one of our LEOs in the Northern Region is responsible for patrolling approximately 600,000 acres. We cannot be everywhere and cannot always be as responsive as some would like or expect. That is why we need help from our partners, cooperators, and user groups to help with the education effort.

Likewise, the agency must continue to seek appropriate engineering infrastructure that can effectively restrict OHV use where it is no longer legal. Gates and physical barriers are often

an impediment to motor vehicle use but they are not infallible and often get vandalized so people can gain access.

Voluntary compliance is what we seek through education and engineering, however, when these fail to adequately reduce violations and protect the resources from being damaged, we need to rely on enforcement. The key is that we adequately address the former before we immediately jump to the latter.

BHA: BHA members are often frustrated when illegal riders on ORV are caught but not punished. What can BHA members do to improve chances that their observations of illegal ORV activity results in convictions?

Probably the best things BHA members can do is provide the most detailed information possible when reporting violations. The more specifics the better, such as a license plate, maybe a related vehicle, direction of travel, known address of violator. The more detailed information the more probable a conviction will be. Also complainants need to be willing to sign a statement and willing to identify the violator or appear in court as a witness.

We have received several reports where the caller has refused to do these things because they knew the violator and were concerned with retaliation. This really ties the hands of law enforcement.

As for the punishment phase, that is totally up to the judges and the courts. Again, education is important here. The courts need to know why the regulations are in effect, what the effects are, and what the long term implications are to resource managers. This will certainly help in the fines and sentencing.

BHA: How are penalties for ORV infractions established? Can ORVs be confiscated under current regulations?

Collateral schedules for violations of federal regulations are established within the federal judicial district as proposed by the administering agency and approved by the Federal District Court in that area. These are reviewed

every couple of years to see if they are still reasonable. At any given time, they can be recommended for an increase or even a decrease if the agency can justify it and the District Court agrees. A number of socio-economic and resource management factors ultimately steer the final decision.

OHVs used in the commission of a violation can be confiscated by law enforcement as they are in fact evidence of the alleged crime. This is similar to seizing the firearm of an alleged poacher. The fact of the matter however is the logistics of doing so are both time and cost prohibitive. An officer who seizes an OHV is then assuming the responsibility for moving, storing, and safekeeping the OHV until trial – also cost and time prohibitive.

Likewise, many courts have frowned upon such practice as it can appear to be overly punitive on the part of the LEO. Taking pictures of the OHV, the damage caused, identifying the alleged violator, and testifying to those events in court is usually more than enough to present our case to a judge.

'We are well aware of the problems and are working diligently to decrease the number of violations but we cannot do it alone.'

BHA: What type of changes in ORV regulations or land management would help stop illegal ORV riding?

I do not think that changes in the regulations are needed at this time as the OHV regulations for National Forest and Grasslands were updated in 2005. What we need to do is continuously review our use of engineering techniques, appropriate signing, public education, and dissemination of information. We also need to continuously develop partnerships with user groups to help us be more effective.

In addition, we need to inform the public of projects underway that will increase OHV opportunities. For example, the development of legal trail riding op-

portunities is under development on several forests. We receive a lot of publicity for closing areas but not as much for the development of new projects that create more OHV trails.

BHA: How can BHA influence stronger penalties for ORV infractions?

It is important to remember that penalties are decided by the courts not law enforcement. Presently, the collateral fines for OHV violations on National Forest System lands in the Northern Region range from \$100 to \$300 dependent upon the specific regulation violated. However, a judge can impose a maximum penalty of six months in jail and/or a \$5,000 fine upon a defendant found guilty at trial. Likewise, a judge has the ability to impose any fine, including one that is lower than the recommended collateral fine.

If BHA wishes to influence federal penalties that effort needs to be done through the federal judicial system – U.S. District Courts, U.S. Attorney's Office, etc.

There is additional opportunity to influence regulations and penalties through the state judicial system but that would need to be coordinated with the state and local cooperators who assist our agency in OHV enforcement. USFS officers traditionally do not enforce OHV violations through the state judicial system.

BHA: What do you think the most important thing for our members to understand about this issue?

Travel management and travel planning requires a huge learning curve for the public, the users, and our employees. Anything our partners and cooperators can do to help agencies daylight the issues around ethical and acceptable OHV use on public lands would be extremely helpful.

Law enforcement is trying very hard to educate users and promote voluntary compliance. Results of these efforts will not always be immediately apparent. We are well aware of the problems and are working diligently to decrease the number of violations but we cannot do it alone. 🐾